
2001 Governance Survey

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American Public Power Association

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Introduction

In January 2001 the American Public Power Association conducted its sixth “Governance Survey” (formerly called “Survey of Administrative and Policymaking Organization of Publicly Owned Electric Utilities.”) The purpose of the survey is to determine the type of control local governments exercise over publicly owned electric systems. This report summarizes the survey data and presents information on the type of governing bodies that oversee public power systems, term limits and compensation of governing body members, the authorities granted to utility governing bodies, and how changes in the industry have affected governing body procedures.

Questionnaires were mailed to approximately 1,920 local publicly owned electric systems in the United States, and 816 completed survey forms were returned to APPA. Excluded from the survey are public power systems, such as joint action agencies, that sell power primarily at wholesale. Although 816 utilities completed the survey, not all of the 816 respondents answered every question. Therefore, summary statistics presented throughout the report represent only those utilities that responded to the particular question.

Profile of Respondents

Since the composition of survey respondents is heavily weighted toward utilities with a relatively small number of customers, most survey results are presented by customer size class. Sixty-two percent of the 816 respondents are utilities with less than 5,000 customers, and 87 percent of respondents serve less than 20,000 customers. The two largest customer size classes account for the remaining 13 percent of respondents. (See Table 1.)

Table 1
Number of Respondents by Customer Size Class

<u>Customer Size Class</u>	<u>Number of Responses</u>	<u>Percent of All Respondents</u>
Less than 5,000 Customers	503	62%
5,000 to 20,000 Customers	207	25%
20,000 to 50,000 Customers	65	8%
Greater than 50,000 Customers	41	5%
Total	816	100%

Ninety-four percent of respondents are municipally owned utilities. The other 6 percent are state-owned utilities or political subdivisions, the majority of which are public power districts or public utility districts in the states of Washington, Oregon or Nebraska.

The majority of respondents, or 59 percent, are governed by a city council, while the remaining 41 percent are governed by an independent utility board. (The term “city council” includes similar entities such as a county council, town council, borough council or board of selectmen.)

Results vary significantly when summarized by customer size class as the smallest customer size class is the only one in which the majority of utilities are governed by a city council. Seventy-one percent of the respondents with less than 5,000 customers are governed by city councils compared to only 37 percent of respondents with greater than 50,000 customers.

Independent utility boards that are appointed are more than twice as common as utility boards that are elected. However, almost all public utility districts and public power districts are governed by elected utility boards. Included in the elected utility board category are two utilities that have a board composed of a majority of elected members and a minority of appointed members. Virtually all city councils are elected. Table 2 summarizes survey respondents by customer size class and the by type of governing body which exercises primary control over the utility.

Table 2
Type of Primary Governing Body

<u>Customer Size Class</u>	<u>Number of Responses</u>	<u>Independent Utility Board</u>		<u>City Council</u>
		<u>Elected</u>	<u>Appointed</u>	
Less than 5,000 Customers	501	8%	22%	71%
5,000 to 20,000 Customers	207	16%	43%	41%
20,000 to 50,000 Customers	65	20%	35%	45%
Greater than 50,000 Customers	41	24%	39%	37%
Total	814	12%	29%	59%

City councils play a large part in determining the make-up of appointed utility boards as they either appoint or approve the board in the majority of cases. Fifty-five percent of the boards are appointed by the mayor, but 91 percent of the time, the mayor's choices must be approved by the city council. The city council appoints the board jointly with the mayor for 10 percent of the utilities and on its own for 31 percent of the utilities.

Independent utility boards name their own chair in approximately 90% of the cases, and this is true whether or not the board is elected or appointed. In contrast, city councils name their chair in only 32% of the cases. Sixty-four percent of city councils' chairs are elected by the voting public, and in many of these cases the elected mayor is automatically the chair of the city council. Table 3 shows how the chair is named for each type of governing body.

Table 3
How Governing Body Chair is Named

<u>Type of Governing Body</u>	<u>Chair Named in General Election</u>	<u>Governing Body Elects Chair</u>	<u>Chair is Appointed</u>
Elected Independent Utility Board	11%	89%	0%
Appointed Independent Utility Board	1%	94%	5%
City Council	64%	32%	4%

Term Length of Governing Body

The average term length for governing bodies is 3.8 years. Term lengths range from one to seven years, and approximately half of respondents report term lengths of four years. Almost all of the utilities reporting governing body term limits of more than four years are governed by independent utility boards. Table 4 shows, for each type of governing body, the percent of respondents by length of term.

Table 4
Term Length of Primary Governing Body

<u>Type of Governing Body</u>	<u>Number of of Responses</u>	<u>1 to 3 Years</u>	<u>4 Years</u>	<u>5 Years or More</u>
Independent Utility Board	318	30%	30%	40%
City Council	452	32%	67%	1%

Only eleven percent of electric utilities' governing bodies are subject to term limits. Restrictions range from one to five terms, with two terms reported as the limit 72 percent of the time. Responses varied significantly by customer size class, with utilities in the largest classes most likely to have term limits applied to the governing body. Table 5 summarizes term limits by customer size class.

Table 5
Term Limits on Governing Bodies

<u>Customer Size Class</u>	<u>Number of Responses</u>	<u>Percent With Term Limits on Governing Body</u>
Less than 5,000 Customers	503	5%
5,000 to 20,000 Customers	207	17%
20,000 to 50,000 Customers	65	41%
Greater than 50,000 Customers	41	78%
Total	816	11%

Compensation of Governing Body

Overall, 83 percent of utility governing bodies are paid. Approximately 85 percent of city councils are paid, and this result is consistent across all customer size classes. Elected independent utility boards are paid in about 82 percent of the cases, and this result is also fairly consistent across all customer size classes. For appointed utility boards, the percentage of governing bodies that are paid decreases as customer size class increases: 87 percent of utilities in the smallest customer size class report that the utility board is paid, compared to 78 percent in the 5,000 to 20,000 customer class, 70 percent in the 20,000 to 50,000 customer class and 50 percent of utilities in the largest customer class.

Survey respondents reported compensation data on either an annual, monthly or per meeting basis, and all responses were converted to an annual average. Of the governing bodies that are paid, the median annual payment is \$1,350 per member. Median compensation increases as customer size class increases, with the exception of elected independent utility boards. The highest median compensation in this category is the 20,000 to 50,000 customer class which is dominated by Washington public utility districts. Table 6 presents median annual compensation of governing body members for each type of governing body and customer size class.

Table 6
Median Compensation of Governing Body Members
(Number of Responses in Parentheses)

<u>Customer Size Class</u>	<u>Independent Utility Board</u>		<u>City Council</u>	<u>Total</u>
	<u>Elected</u>	<u>Appointed</u>		
Less than 5,000 Customers	\$ 2,000 (31)	\$ 600 (91)	\$ 1,200 (269)	\$ 1,000 (391)
5,000 to 20,000 Customers	3,600 (26)	1,650 (66)	4,800 (63)	2,760 (155)
20,000 to 50,000 Customers	18,000 (11)	1,800 (15)	6,840 (24)	5,416 (50)
Greater than 50,000 Customers	12,000 (9)	3,300 (8)	12,000 (13)	10,286 (30)
Total	\$ 3,600 (77)	\$1,200 (180)	\$ 1,500 (369)	\$ 1,350 (626)

Authority of Controlling Board

Survey respondents were asked to indicate which governing body or individual has final approval for eight specific actions: setting retail electric rates, approving the utility budget, setting salaries of key utility officials, issuing long-term bonds, making financial investments for the electric utility, approving purchased power contracts, exercising the right of eminent domain, and hiring and firing utility personnel. Except for the last function – hiring and firing – the authority for these functions overwhelmingly resides with the city council for utilities under city council control. However, for utilities under the control of an independent utility board, the results are more mixed. While the independent utility board has authority for a majority of utilities for seven out of the eight functions, the city council – either on its own or jointly with the utility board – retains authority for a significant number of utilities.

The following descriptions and tables summarize the distribution of authority under independent utility boards as the primary governing body and under city councils as the primary governing body.

Independent Utility Board as Primary Governing Body

Approximately 330 utilities report that an independent utility board is their primary governing body. A majority of these utilities list the independent utility board as retaining final authority for seven of the eight functions. Utility boards are most likely to have final approval over setting salaries of key utility officials, approving utility budgets, making financial investments and approving purchased power contracts. Boards are least likely to have final approval over issuing long-term bonds and exercising the right of eminent domain.

Most of the “Other” responses shown in Table 7 indicate joint authority between the utility board and the city council. Exceptions include the authority to make financial investments for the utility, which often resides with the financial director, city treasurer or general manager, and authority to hire and fire, which typically resides with the general manager of the utility or the city manager. In addition authority to set retail rates can reside with the state public utility commission, or with the Tennessee Valley Authority, in the case of TVA distribution systems. For some small systems (mainly in Massachusetts) a town meeting provides the final authority to issue long-term debt and to exercise eminent domain.

While there are differences when comparisons are made between customer size classes, the same pattern remains. A larger percentage of utilities report that the independent utility board has final approval over salaries, budgets, financial investments and purchased power contracts, and smaller percentages report that the board has approval over issuing long-term bonds and exercising the right of eminent domain.

Table 7 summarizes the results by customer size class. For each of the eight functions, the table shows the number of responses and the percent of responses indicating power of final approval for (1) the independent utility board (2) the city council and (3) other entities.

Table 7
Exercise of Specific Authorities for Utilities with Independent Utility Board
as Primary Governing Body

<u>Authorities</u>	<u>Number of Responses</u>	<u>Independent Utility Board</u>	<u>City Council</u>	<u>Other</u>
Less than 5,000 Customers				
Set retail electric rates	145	70%	13%	17%
Approve utility budget	145	79%	16%	6%
Set salaries of key utility officials	143	82%	15%	3%
Issue long-term bonds	139	47%	46%	7%
Make financial investments for utility	142	82%	13%	5%
Approve purchased power contracts	143	80%	12%	8%
Exercise right of eminent domain	137	50%	44%	7%
Hire and fire utility personnel	144	79%	5%	16%
5,000 to 20,000 Customers				
Set retail electric rates	123	67%	16%	17%
Approve utility budget	123	86%	11%	2%
Set salaries of key utility officials	123	89%	7%	4%
Issue long-term bonds	122	24%	58%	18%
Make financial investments for utility	122	75%	7%	19%
Approve purchased power contracts	123	73%	16%	11%
Exercise right of eminent domain	116	47%	41%	11%
Hire and fire utility personnel	123	65%	0%	35%
20,000 to 50,000 Customers				
Set retail electric rates	35	69%	17%	14%
Approve utility budget	35	83%	14%	3%
Set salaries of key utility officials	34	91%	9%	0%
Issue long-term bonds	35	37%	43%	20%
Make financial investments for utility	34	74%	3%	24%
Approve purchased power contracts	35	83%	9%	9%
Exercise right of eminent domain	33	52%	39%	9%
Hire and fire utility personnel	34	62%	0%	38%
Greater than 50,000 Customers				
Set retail electric rates	26	65%	23%	12%
Approve utility budget	26	77%	23%	0%
Set salaries of key utility officials	26	88%	8%	4%
Issue long-term bonds	26	42%	42%	15%
Make financial investments for utility	26	85%	4%	12%
Approve purchased power contracts	26	81%	8%	12%
Exercise right of eminent domain	26	77%	19%	4%
Hire and fire utility personnel	25	76%	0%	24%

City Council as Primary Governing Body

Approximately 470 utilities report that the city council is their primary governing body. For all customer size classes combined, 90 percent or more of these utilities indicate that the city council has final approval for six of the eight functions surveyed. The two exceptions are making financial investments for the electric utility and hiring and firing utility personnel. These two functions are still performed by the city council in the majority of the utilities, but the authority resides with an individual in other cases. The financial director, city treasurer, city manager or utility staff are the individuals most often listed as making financial investments, while the utility general manager or the city manager most often have final hiring and firing authority.

The city council has authority for setting retail rates and setting salaries for 90 percent of the utilities. State utility commissions, town meetings and outside agencies, such as the New York Power Authority and the Tennessee Valley Authority, have rate-setting authority for the remaining 10 percent of utilities. The most common response in the “other” category for setting salaries is an individual, such as the city manager. In addition, several small systems in Indiana report that final approval for most of the 8 functions is provided through a town meeting.

There are differences in the city council’s authority when comparisons are made between customer size classes. For example, the smallest customer size class is the only one for which the city council maintains authority for hiring and firing for the majority of systems. In addition, city councils have final approval over salaries, financial investment, and purchased power contracts for a smaller percentage of utilities in the larger customer size classes.

Table 8 summarizes the results by customer size class. For each of the eight functions the table shows the number of responses and the percent of responses indicating power of final approval for (1) the city council and (2) other entities.

Table 8
Exercise of Specific Authorities for Utilities with City Council as Primary Governing Body

<u>Authorities</u>	<u>Number of Responses</u>	<u>City Council</u>	<u>Other</u>
Less than 5,000 Customers			
Set retail electric rates	345	89%	11%
Approve utility budget	344	97%	3%
Set salaries of key utility officials	344	93%	7%
Issue long-term bonds	336	95%	5%
Make financial investments for utility	342	84%	16%
Approve purchased power contracts	339	94%	6%
Exercise right of eminent domain	333	96%	4%
Hire and fire utility personnel	342	72%	28%
5,000 to 20,000 Customers			
Set retail electric rates	84	92%	8%
Approve utility budget	84	98%	2%
Set salaries of key utility officials	84	83%	17%
Issue long-term bonds	83	98%	2%
Make financial investments for utility	84	74%	26%
Approve purchased power contracts	84	94%	6%
Exercise right of eminent domain	83	96%	4%
Hire and fire utility personnel	84	35%	65%
20,000 to 50,000 Customers			
Set retail electric rates	29	90%	10%
Approve utility budget	29	100%	0%
Set salaries of key utility officials	29	72%	28%
Issue long-term bonds	29	100%	0%
Make financial investments for utility	29	72%	28%
Approve purchased power contracts	29	97%	3%
Exercise right of eminent domain	29	97%	3%
Hire and fire utility personnel	29	28%	72%
Greater than 50,000 Customers			
Set retail electric rates	15	100%	0%
Approve utility budget	15	100%	0%
Set salaries of key utility officials	15	80%	20%
Issue long-term bonds	15	100%	0%
Make financial investments for utility	15	67%	33%
Approve purchased power contracts	15	67%	33%
Exercise right of eminent domain	15	100%	0%
Hire and fire utility personnel	15	20%	80%

Payments in Lieu of Taxes

Eighty percent of survey respondents make payments in lieu of taxes to their state or local governments. (Payments in lieu of taxes may be called by a different name, such as tax equivalents or transfers to the general fund.) Results differ by customer size class, as only 74 percent of utilities in the smallest customer size class make payments in lieu of taxes, compared to nearly 90 percent or more of the utilities in the largest classes. Eighty three percent of utilities with independent boards make payments compared to 78% of utilities governed by city councils. Table 9 shows, by customer class, the percent of respondents that make payments in lieu of taxes.

Table 9
Utilities that Make Payments in Lieu of Taxes

<u>Customer Size Class</u>	<u>Number of Responses</u>	<u>Percent that Make Payments</u>
Less than 5,000 Customers	503	74%
5,000 to 20,000 Customers	207	88%
20,000 to 50,000 Customers	65	92%
Greater than 50,000 Customers	41	90%
Total	816	80%

Of the utilities that make payments in lieu of taxes, 57 percent use a formula to determine the amount. Utilities in the smallest customer size class are least likely to use a formula, while utilities in the largest classes are the most likely to use a formula. Seventy-five percent of utilities under the control of a utility board use a formula to determine the amount of payments in lieu of taxes, compared to only 44% percent of utilities under the control of a city council. (See Table 10.)

Table 10
Percent of Utilities Making Payments in Lieu of Taxes
that Use a Formula to Determine the Amount
(Number of Responses in Parentheses)

<u>Customer Size Class</u>	<u>Primary Governing Body</u>		<u>Total</u>
	<u>Utility Board</u>	<u>City Council</u>	
Less than 5,000 Customers	63% (112)	35% (258)	44% (370)
5,000 to 20,000 Customers	79% (107)	49% (75)	66% (182)
20,000 to 50,000 Customers	94% (34)	85% (26)	90% (60)
Greater than 50,000 Customers	95% (22)	87% (15)	92% (37)
Total	75% (275)	44% (374)	57% (649)

(More detailed information on payments in lieu of taxes and other payments and contributions is available in APPA's series of reports, *Payments and Contributions By Public Power Distribution*)

Systems To State and Local Government. The reports include data on the amount and type of payments and contributions, summaries by customer size class and region, and comparisons with investor-owned utilities.)

How the Competitive Environment Affects Governing Body Oversight

Increased competition at the wholesale level and retail choice programs in several states have combined to increase pressure on public power systems to operate more efficiently. In response some governing bodies have made changes intended to allow utilities to compete more effectively. Survey respondents were asked if their governing body had made any of five specific changes related either to governing body meetings or to allowing the utility manager greater flexibility in making decisions.

Sixteen percent of survey respondents reported that open meeting laws had been amended to allow potentially competitive information to remain confidential. Similarly 19% of respondents said that changes had been made to what is discussed at governing body meetings in order to keep potentially competitive information confidential. As shown in Table 11-A, the results varied significantly by customer class, with the smallest customer class least likely, and the largest customer class most likely, to have made these changes.

The governing body can change approval processes to give utility managers more opportunities to act independently and to make quicker decisions. This was most likely to have occurred with purchasing authority, as 27% of respondents reported that the governing body had raised the dollar threshold required for governing body approval, thereby allowing more purchases to be approved by utility managers.

Only 13% of respondents said that the governing body had established credit standards allowing the utility manager to sign some short-term power contracts without governing body approval, and only 12% reported that the governing body had set guidelines allowing managers to negotiate rates for key customers.

Results differed significantly by customer class for all three items. As shown in Table 11-B, these changes are much more likely to have occurred at utilities in the largest customer class. The difference is greatest for allowing the utility manager to sign some short-term power contracts, as only 7% of utilities in the smallest customer class have this ability, compared to 56% of the utilities in the largest customer class.

Table 11-A
Percent of Utilities that Made Changes to Governing Board Meetings

<u>Customer Size Class</u>	<u>Number of Responses</u>	<u>To allow potentially competitive information to remain confidential, changes have been made to:</u>	
		<u>Open Meeting Laws</u>	<u>What Is Discussed at Meetings</u>
Less than 5,000 Customers	503	11%	14%
5,000 to 20,000 Customers	207	22%	25%
20,000 to 50,000 Customers	65	26%	28%
Greater than 50,000 Customers	41	27%	46%
Total	816	16%	19%

Table 11-B
Percent of Utilities that Made Changes to Approval Processes

<u>Customer Size Class</u>	<u>Raised Dollar Threshold for Governing Body Approval of Purchases</u>	<u>Allow Manager to Sign Short-Term Power Supply Contracts</u>	<u>Allow Manager to Negotiate Rates for Key Customers</u>
Less than 5,000 Customers	20%	7%	7%
5,000 to 20,000 Customers	32%	16%	13%
20,000 to 50,000 Customers	45%	23%	29%
Greater than 50,000 Customers	51%	56%	39%
Total	27%	13%	12%

(Note: Number of responses is the same in Tables 11-A and 11-B.)

Utility Service to Customers Outside of Municipal Boundaries

The public power systems that completed APPA's survey include both municipally owned utilities and other political subdivisions – such as state-owned utilities, public power districts, public utility districts, and municipal utility districts – that provide electric service. Of the 816 respondents, 767 or 94% are municipally owned utilities, and these utilities also provided information about service to customers outside of the municipality's boundaries.

Sixty-five percent of municipally owned utilities – or a total of 495 systems – serve at least some customers located outside the municipality's boundaries. This ranges from 61% of municipally owned utilities in the smallest customer class to around 75% in the two largest customer classes. These 495 utilities were asked about the relationship between the utility and the customers located outside of the municipality.

Eight percent of the 495 utilities include on the governing body a representative for customers outside the municipality, and 14% make payments in lieu of taxes to jurisdictions outside the municipal boundaries. The pattern is the same for both actions: large utilities and utilities with appointed utility boards are the most likely to have a governing body representative for customers outside the municipality and most likely to make payments to jurisdictions outside the city boundaries. (See tables 12-A and 12-B.)

Table 12-A
Utilities that Serve Customers Outside the Municipal Boundaries

<u>Customer Size Class</u>	<u>Number of Responses</u>	<u>Governing Body Includes a Representative From Outside Municipality</u>	<u>Utility Makes Payments in Lieu of Taxes to Outside Jurisdictions</u>
Less than 5,000 Customers	295	5%	6%
5,000 to 20,000 Customers	135	11%	19%
20,000 to 50,000 Customers	42	12%	29%
Greater than 50,000 Customers	23	22%	57%
Total	495	8%	14%

Table 12-B

<u>Type of Governing Body</u>	<u>Number of Responses</u>	<u>Governing Body Includes a Representative From Outside Municipality</u>	<u>Utility Makes Payments in Lieu of Taxes to Outside Jurisdictions</u>
Elected Utility Board	28	7%	14%
Appointed Utility Board	168	14%	26%
City Council	298	5%	7%
Total	494	8%	14%

(Note: Tables 12-A and 12-B are based on responses from 495 municipal utilities that serve customers outside of the municipal boundaries.)

Finally, the 767 municipal electric utilities were asked which other utility services are provided by the municipal government. As shown in Table 13 below, water and sewer are the most common utility services provided by the municipal government.

Table 13
Other Utility Services Provided by the Municipal Government

<u>Utility Service</u>	<u>Number that Provide Service</u>	<u>Percent of Municipal Electric Utility Respondents</u>
Gas	139	18%
Water	725	95%
Sewer	682	89%
Wastewater	544	71%
Cable TV	50	7%
Other	118	15%

The most frequently listed services provided in the “other” category include garbage, solid waste disposal, Internet, and telecommunications.